

**COMPLAINT INVESTIGATION SUMMARY**

**COMPLAINT NUMBER:** 1779.01  
**COMPLAINT INVESTIGATOR:** Jane Taylor-Holmes  
**DATE OF COMPLAINT:** July 12, 2001  
**DATE OF REPORT:** August 9, 2001  
**REQUEST FOR RECONSIDERATION:** no  
**DATE OF CLOSURE:** September 20, 2001

**COMPLAINT ISSUES:**

Whether the Rush Community Schools and the East Central Special Services District violated:

511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's *individualized education program* (the "*IEP*") as written, specifically, failing to provide speech therapy services as described during the 2000-01 school year.

511 IAC 7-27-7(b) and 511 IAC 7-17-72 with regard to the school's alleged failure to ensure the student's teacher of record monitored the implementation of the student's *IEP*, specifically, failing to monitor the provision of speech therapy services.

511 IAC 7-27-6(a) with regard to the school's alleged failure to ensure that the student's *IEP*, developed in April 2001, includes:

- a. a statement of the student's present levels of educational performance, including how the student's disability affects the student's involvement and progress in the general education curriculum;
- b. a statement regarding the student's participation in statewide or local assessments, including, when the case conference committee's determination that the student will not participate, the reasons the assessment is not appropriate for the student and the alternate assessment in which the student will participate;
- c. the length, frequency, location, and duration of special education and related services; and
- d. an explanation of the extent, if any, to which the student will not participate with nondisabled students in general education classes or settings and in extracurricular and other nonacademic activities.

511 IAC 7-27-9(b) with regard to the school's alleged failure to make available to a student with a disability the variety of educational programs and services that are made available to nondisabled students (including field trips), specifically, not allowing the student to participate in the absence of the student's mother accompanying the student on the field trips.

**FINDINGS OF FACT:**

1. The student (the "Student") is eleven years old and during the 2000-01 school year completed the fifth grade in a self-contained classroom (the "Classroom") at an elementary school (the "School") outside of his home school. The Student is eligible for special education and related services as a student with a severe mental handicap. The Student began the 2000-01 school year with an *IEP* that was written on March 17, 2000.

2. The *IEP* states that the Student was to receive integrated speech two times per week for thirty minutes, and individual speech services two times per week for thirty minutes. The location for the Student's speech services was listed as a separate setting. There was one annual goal with objectives for speech therapy. The speech therapist, teacher (the "Classroom Teacher"), and paraprofessional were listed as the individuals responsible for implementation. The review dates were listed as February 7, 2001, March 19, 2001, and April 12, 2001, for the annual speech goal and objectives. The initiation and duration of services dates for this *IEP* were March 17, 2000, to March 17, 2001.
3. The Complainant submitted a letter dated September 28, 2000, written by the Classroom Teacher. The letter states "[Speech therapist] sees [Student] three times a week. We have group speech at 10:30 on Mondays and [Student] sees her on Wednesdays and Thursdays at 9:30." The Classroom Teacher also served as the Student's teacher of record.
4. The Student's ACR was scheduled for March 10, 2001; however, the Complainant was unable to attend on that date. The Complainant was provided a form dated March 13, 2001, that contained the following statement: "The current *IEP* is extended from 3-17-01 to 4-20-01 as requested by [the Complainant], due to mother needing more time to prepare for the conference. Conference is changed from 3-14-01 to 4-10-01." The Complainant signed the form on March 15, 2001, indicating that she agreed to extending the Student's *IEP* until April 20, 2001.
5. The Student's ACR met on April 17, 2001. The *IEP* includes the Student's present levels of educational performance. The Student's most recent educational evaluation results (February 1999) are listed, in addition to information pertaining to the Student's current achievement skills; social and emotional information; physical and medical information; speech; and parent input and concerns. The "Participation in General Education" section found on page one of the *IEP* states that the Student is to receive full-time special education services in a separate setting with curriculum "modified to meet student's individual needs." The bottom of page one states "Percentage of the school week that the student will participate in special education and related services: 100%," and "Percentage of the school week this student will participate in general education: 0%." Also listed under the "Participation in General Education" section is a statement indicating that the Student will participate in all non-academic activities with same-age peers. A written explanation states "Needs additional support but will participate in some field trips w/mother." Another statement indicates that the Student will participate in all extracurricular activities in accordance with school rules. A written explanation states "Needs additional support."
6. The "Participation in District and Statewide Assessment" section of the Student's *IEP* states "N/A."
7. The assistant director of special education (the "Assistant Director") reported that the statement regarding participation in district and statewide assessments is a recording error. The Student is evaluated through the state's alternative assessment system of educational proficiencies. The Student's core 100 questions were completed at the beginning of the 2000-01 school year. The Student's level of performance recorded in the eight curriculum areas and a portfolio of the Student's progress have been maintained.
8. The case conference committee (the "CCC") agreed to reduce the Student's speech services. The *IEP* states speech services are to be provided three times a week in the general education setting and in a separate setting for a total of three percent. The Assistant Director reported that three percent is equal to one hour. The Assistant Director reported that even if services are not being provided in the general education setting, it is indicated in the *IEP* as an anticipated location for services. The initiation and duration of services dates for this *IEP* are listed as April 17, 2001, to April 17, 2002.

9. The Student's April 17, 2001, *IEP* includes an annual goal with objectives for integrated speech services on goal sheet number three. The speech therapist, Classroom Teacher, and paraprofessional are listed as the individuals responsible for implementation.
10. The Assistant Director reported that during the 2000-01 school year the Student received two individual sessions of speech per week, and two other sessions in an integrated setting in the Classroom. The Classroom Teacher and the speech therapist utilized an integrated team approach to providing language and communication services in the Classroom.
11. The Classroom Teacher reported that during the 2000-01 school year the Classroom was a language/communication based classroom, and one to two times a week students in the Classroom participated in playing games using speech cards and sentence strips for a half-hour period. Once a week for an hour the class listened to a story and made "Speech Books." The Classroom Teacher submitted examples of the speech cards, the sentence strips, and a "Speech Book." A paper containing a vocabulary list was also submitted indicating which words the Student mastered. The paper contains several handwritten notes. One of the notes states "Knows all except /ed" words." Another note states "Knows 76. 4/12/2001." The Classroom Teacher submitted her worksheet indicating the times that the Student received integrated speech services.
12. No records were submitted indicating the dates the Student received individual speech sessions from the speech therapist during the 2000-01 school year.
13. The fifth grade classes at the School had two field trips during the 2000-01 school year. The first field trip was October 31, 2000, to a music hall in an adjoining state. The Classroom Teacher decided that the Classroom students would not participate in this field trip because the Classroom Teacher was unable to obtain enough volunteers to accompany and assist with the Classroom students.
14. The second field trip for the fifth grade classes was on January 30, 2001, to a local middle school. Although notes are sent home to parents of fifth graders three to five days prior to a field trip, the Assistant Director reported that the Classroom Teacher was not informed of this field trip; as a consequence, the Classroom students did not participate.
15. The Student attended a May 10, 2001, field trip for the third grade classes to a local lake. The Complainant accompanied the Student on this field trip.
16. The Assistant Director reported that during the April 17, 2001 CCC meeting the Complainant volunteered to accompany the Student on field trips. The CCC notes state "[Complainant] wants more integration w/reg. ed. setting and will accompany [Student] on field trips or like activities."
17. The CCC met on May 24, 2001, to discuss the results of an assistive technology evaluation conducted on April 27, 2001, and May 7, 2001. The "Participation in District and Statewide Assessment" section of the *IEP* has a handwritten note that states "corrected 5-24-01" next to it, along with the Complainant's signature. However, the section remains blank with regard to the Student's participation in statewide or local assessments.

#### **CONCLUSIONS:**

1. Findings of Fact #2, #3, #5, and #8 indicate that the Student was to receive both integrated and individual speech services until April 17, 2001, when the ACR was held. Finding of Fact #9 indicates that the revised *IEP* states that the Student was to receive integrated speech services.

during the 2000-01 school year. Although Findings of Facts #2, #10, and #11 indicate that the Student received integrated speech services as indicated in the *IEP*, Finding of Fact #12 indicates that no documentation was provided to demonstrate that the speech therapist provided individual services to the Student. A violation of 511 IAC 7-27-7(a) occurred.

2. Findings of Fact #2, #3, #5, #8, #9, #10, and #11 indicate that the Student's Classroom Teacher and the speech therapist provided the Student integrated speech services; however, Finding of Fact #12 indicates that no documentation was provided to demonstrate that individual speech therapy was provided to the Student. A violation of 511 IAC 7-27-7(b) and 511 IAC 7-17-72 occurred with regard to the Classroom Teacher monitoring the provision of individual speech services.
- 3.a. Finding of Fact #5 indicates that the Student's April 17, 2001, *IEP* includes the Student's present levels of educational performance. Further, Finding of Fact #5 indicates that the Student is in a full-time special education Classroom, with curriculum to meet the Student's individual needs. No violation of 511 IAC 7-27-6(a) has occurred with regard to including a statement of the present levels of educational performance, specifically, how the Student's disability affects involvement and progress in the general education curriculum in the *IEP*.
- 3.b. Findings of Fact #6, #7, and #17 indicate that the CCC did not include a statement regarding the Student's participation or non-participation in statewide or local assessments, and the reasons the assessment is not appropriate for the Student. A violation of 511 IAC 7-27-6(a) occurred with regard to including in the *IEP* a statement addressing the Student's participation in statewide or local assessments.
- 3.c. Findings of Fact #2, #3, #5, #8, #9, and #10 indicate that the Student is in a full-time special education classroom and is to receive integrated speech services one hour per day. No violation of 511 IAC 7-27-6(a) occurred with regard to including the length, frequency, location, and duration of special education and related services in the *IEP*.
- 3.d. Finding of Fact #5 indicates that the *IEP* includes an explanation to which the Student will not participate with nondisabled students in general education classes or settings, and in extracurricular and other nonacademic activities. No violation of 511 IAC 7-27-6(a) occurred with regard to including in the *IEP* an explanation of the extent, if any, to which the Student will not participate with nondisabled students in general education classes.
4. Findings of Fact #13 and #14 indicate that there were two field trips for fifth grade students during the 2000-01 school year. The Findings indicate that the Classroom Teacher chose not to participate in the first one due to a lack of volunteers, and the Classroom Teacher was not informed of the second field trip. Although Finding of Fact #16 indicates that the Assistant Director reported that the Complainant volunteered to accompany the Student on field trips; Findings of Fact #5, #15, and #16 indicate that the Student's need for additional support in order to have more integration with regular education required the Complainant to accompany the Student on field trips. A violation of 511 IAC 7-27-9(b) occurred with regard to allowing the Student to participate in field trips in the absence of the Complainant accompanying the Student.

**The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.**

**CORRECTIVE ACTION:**

The Rush Community Schools and the East Central Special Services District shall:

1. reconvene the Student's CCC meeting no later than September 7, 2001, to determine if compensatory services are necessary for the interruption of speech therapy services. A copy of the CCC report shall be submitted to the Division no later than September 17, 2001, indicating that said services were discussed.
2. submit a statement to the Division no later than September 17, 2001, assuring that the Classroom Teacher will ensure that *IEPs* of students on her caseload receiving individual speech therapy will be monitored for the provision of such. A copy of the assurance statement shall be submitted to the Division no later than September 17, 2001.
3. discuss and determine the Student's participation in statewide and local assessments at the reconvened CCC meeting (Corrective Action #1). The "Participation in District and Statewide Assessment" section of the Student's *IEP* shall be completed, and include (if not participating in ISTEP) the reasons such assessment is not appropriate and the alternate assessment to be used. The revised *IEP* shall be submitted to the Division no later than September 17, 2001.
4. discuss and determine the Student's participation in all educational programs and services, specifically, field trips. A determination shall be made with regard to the support to be provided by the School in order for the Student's participation. Although the Complainant may volunteer to accompany the Student in said activities, the Complainant shall not be responsible for providing support to the Student. A copy of the CCC report shall be submitted no later than September 17, 2001, indicating that the CCC discussed and determined arrangements for the Student's participation and subsequent support in all educational programs and services.

DATE REPORT COMPLETED: August 9, 2001